

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 950

Introduced by Byars, 30; Schimek, 27; Stuhr, 24; Suttle, 10;
Thompson, 14

Read first time January 5, 2000

Committee: Health and Human Services

A BILL

- 1 FOR AN ACT relating to children; to adopt the Infant Hearing Act;
- 2 to provide for insurance and medicaid payments; and to
- 3 declare an emergency.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 10 of this act shall be known
2 and may be cited as the Infant Hearing Act.

3 Sec. 2. (1) The Legislature finds that:

4 (a) Hearing loss occurs in newborns more frequently than
5 any other health condition for which newborn screening is required;

6 (b) Early detection of hearing loss in a child and early
7 intervention and treatment before six months of age has been
8 demonstrated to be highly effective in facilitating a child's
9 language, communication, and educational development;

10 (c) Children of all ages can receive reliable and valid
11 screening for hearing loss in a cost-effective manner; and

12 (d) Appropriate screening and identification of newborns
13 and infants with hearing loss will facilitate early intervention
14 and treatment in the critical time period for language development
15 and may serve the public purposes of promoting the healthy
16 development of children and reducing public expenditure for health
17 care, special education, and related services.

18 (2) The purpose of the Infant Hearing Act is:

19 (a) To provide early detection of hearing loss in
20 newborns at the birthing facility, or as soon after birth as
21 possible for those children born outside of a birthing facility, to
22 enable these children and their families and other caregivers to
23 obtain needed multidisciplinary evaluation, treatment, and
24 intervention services at the earliest opportunity and to prevent or
25 mitigate the developmental delays and academic failures associated
26 with late detection of hearing loss; and

27 (b) To provide the state with the information necessary
28 to effectively plan, establish, and evaluate a comprehensive system

1 for the identification of newborns and infants who have a hearing
2 loss.

3 Sec. 3. For purposes of the Infant Hearing Act:

4 (1) Birth admission means the time after birth that the
5 newborn remains in the hospital or other health care facility prior
6 to discharge;

7 (2) Birthing facility means a hospital or other health
8 care facility in this state which provides birthing and newborn
9 care services;

10 (3) Confirmatory testing facility means a hospital or
11 other health care facility in this state which provides followup
12 hearing tests;

13 (4) Infant means a child from thirty days through twelve
14 months old;

15 (5) Newborn means a child from birth through twenty-nine
16 days old; and

17 (6) Parent means a natural parent, stepparent, adoptive
18 parent, legal guardian, or other legal custodian of a child.

19 Sec. 4. The Legislature recognizes that it is necessary
20 to track newborns and infants identified with a potential hearing
21 loss or have been evaluated and have been found to have a hearing
22 loss for a period of time in order to render appropriate followup
23 care. The Department of Health and Human Services shall, on or
24 before December 1, 2000, determine and implement the most
25 appropriate system for this state which is available to track
26 newborns and infants identified with a hearing loss. It is the
27 intent of the Legislature that the tracking system provide the
28 department and Legislature with the information necessary to

1 effectively plan and establish a comprehensive system of
2 developmentally appropriate services for newborns and infants who
3 have a potential hearing loss or who have been found to have a
4 hearing loss and shall reduce the likelihood of associated
5 disabling conditions for such newborns and infants.

6 Sec. 5. (1) Beginning December 1, 2000, and annually
7 thereafter, every birthing facility shall report to the Department
8 of Health and Human Services the number of:

9 (a) Newborns born;

10 (b) Newborns and infants recommended for a hearing
11 screening test;

12 (c) Newborns who received a hearing screening test during
13 birth admission;

14 (d) Newborns who passed a hearing screening test during
15 birth admission if administered;

16 (e) Newborns who did not pass a hearing screening test
17 during birth admission if administered;

18 (f) Newborns recommended for monitoring, intervention,
19 and followup care.

20 (2) Beginning December 1, 2000, and annually thereafter,
21 every confirmatory testing facility shall report to the Department
22 of Health and Human Services the number of:

23 (a) Newborns and infants who return for a followup
24 hearing test;

25 (b) Newborns and infants who do not have a hearing loss
26 based upon the followup hearing test; and

27 (c) Newborns and infants who are shown to have a hearing
28 loss based upon the followup hearing test.

1 Sec. 6. (1) Beginning January 1, 2001, every birthing
2 facility shall educate the parents of newborns born in such
3 facilities of the importance of receiving a hearing screening test
4 and any necessary followup care. This educational information
5 shall explain, in lay terms, the hearing screening test, the
6 likelihood of the newborn having a hearing loss, followup
7 procedures, and community resources, including referral for early
8 intervention services under the Early Intervention Act. The
9 educational information also shall include a description of the
10 normal auditory, speech, and language developmental process in
11 children. Education shall not be considered a substitute for the
12 hearing screening test.

13 (2) If a newborn is not born in a birthing facility, the
14 Department of Health and Human Services shall educate the parents
15 of such newborns of the importance of receiving a hearing screening
16 test and any necessary followup care. The department shall also
17 give parents information to assist them in having the test
18 performed within three months after the date of the child's birth.

19 Sec. 7. (1) The Department of Health and Human Services
20 shall determine which birthing facilities are administering hearing
21 screening tests to newborns and infants on a voluntary basis and
22 the number of newborns and infants screened. The department shall
23 report to the Legislature by January 1, 2002, and annually
24 thereafter, the number of:

25 (a) Birthing facilities administering voluntary hearing
26 screening tests during birth admission;

27 (b) Newborns screened as compared to the total number of
28 newborns born in such facilities;

1 (c) Newborns who passed a hearing screening test during
2 birth admission if administered;

3 (d) Newborns who did not pass a hearing screening test
4 during birth admission if administered; and

5 (e) Newborns recommended for followup care.

6 (2) The department, in consultation with the State
7 Department of Education, birthing facilities, and other providers,
8 shall develop approved screening methods and protocol for statewide
9 hearing screening tests of substantially all newborns and infants
10 by December 1, 2002.

11 (3) Subject to available appropriations, the Department
12 of Health and Human Services shall make the report described in
13 this section available.

14 Sec. 8. (1) By December 1, 2003, a hearing screening
15 test shall be conducted on no fewer than ninety-five percent of the
16 newborns born in this state.

17 (2) If the number of newborns receiving a hearing
18 screening test does not equal or exceed ninety-five percent of the
19 total number of newborns born in this state on or before December
20 1, 2003, or falls below ninety-five percent at any time thereafter,
21 the Department of Health and Human Services shall immediately adopt
22 and promulgate rules and regulations implementing a hearing
23 screening program. The hearing screening program shall provide for
24 a hearing screening test that every newborn born in this state
25 shall undergo screening for detection of potential hearing loss and
26 shall provide that the hearing screening test be completed during
27 birth admission or, if that is not possible, no later than three
28 months after birth. Notwithstanding this section, it is the goal

1 of this state to achieve a one-hundred-percent screening rate.

2 Sec. 9. (1) The Department of Health and Human Services
3 and the State Department of Education shall establish guidelines
4 for when a referral shall be made for early intervention services
5 under the Early Intervention Act. The guidelines shall include a
6 request for an individual evaluation of a child suspected of being
7 deaf or hard of hearing as defined in section 79-1118.01.

8 (2) It is the intent of the Legislature that a parent may
9 refuse to have hearing screening testing for his or her child based
10 upon personal and sincerely held religious beliefs of the parent
11 which conflict with such testing.

12 Sec. 10. The Department of Health and Human Services
13 shall adopt and promulgate rules and regulations necessary to
14 implement the Infant Hearing Act.

15 Sec. 11. (1) The Department of Health and Human Services
16 shall provide payment for hearing screening tests for newborns and
17 infants through the medical assistance program if the child is
18 eligible for medical assistance as determined by state and federal
19 law.

20 (2) Any contract for the provision of medical assistance
21 negotiated with a managed care organization shall include payment
22 for hearing screening tests for newborns and infants and for
23 necessary audiologic followup care.

24 Sec. 12. (1) Notwithstanding section 44-3,131:

25 (a) Except as otherwise provided in this section, a
26 health insurance plan shall provide coverage for hearing screening
27 tests for newborns and infants;

28 (b) Except as otherwise provided in this section, if a

1 health insurance plan provides coverage to a resident of this
2 state, it shall be deemed to be delivered in this state regardless
3 of whether the health care insurer issuing or delivering the policy
4 is located within or outside this state;

5 (c) Coverage for the hearing screening test is subject to
6 copayment and coinsurance provisions of a health insurance plan to
7 the extent that other medical services covered by the policy are
8 subject to such provisions, except that coverage for the hearing
9 screening test is exempt from deductible or dollar-limit provisions
10 in the health insurance plan. This exemption shall be explicitly
11 provided for in the plan;

12 (d) This section does not require a health insurance plan
13 to include coverage for the hearing screening test for an
14 individual who is a resident of this state if the individual is
15 employed outside this state and the individual's employer maintains
16 a health insurance plan for the individual as an employment
17 benefit; and

18 (e) This section applies to health insurance plans
19 delivered, for delivery, or which become effective on or after the
20 effective date of this act, and also applies to all renewals or
21 changes which are effective on or after the effective date of this
22 act.

23 (2) For purposes of this section, health insurance plan
24 means a plan which includes dependent coverage for children which
25 is delivered, issued for delivery, renewed, extended, or modified
26 in this state. A health insurance plan includes any such group or
27 individual sickness and accident insurance policy, health
28 maintenance organization contract, subscriber contract, employee

1 medical, surgical, or hospital care benefit plan, or self-funded
2 employee benefit plan to the extent not preempted by federal law.
3 Health insurance plan includes any policy, contract, or plan
4 offered or administered by the state or its political subdivisions.
5 Health insurance plan does not include policies providing coverage
6 for a specified disease, accident-only coverage, hospital indemnity
7 coverage, disability income coverage, medicare supplement coverage,
8 long-term care coverage, or other limited-benefit coverage.

9 (3) The Department of Insurance shall adopt and
10 promulgate rules and regulations necessary to implement this
11 section.

12 Sec. 13. Since an emergency exists, this act takes
13 effect when passed and approved according to law.